

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

JOHN J. BEDNARSKI and	:	
RUTH BEDNARSKI, h/w	:	
Plaintiffs,	:	C.A. NO.:
v.	:	0 5 - 1 2 5
E and S CONTRACT CARRIERS, INC.	:	
CLARENCE JONES and	:	
I & A TRANSPORT and	:	
MARTIN CAMACHO	:	
Defendants.	:	

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2005 MAR -4 AM 11:22

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE:

Defendants, E & S Contract Carriers, Inc. and Clarence Jones, by and through their attorneys, Rawle and Henderson, LLP, respectfully aver as follows:

1. Defendant, E & S Contract Carriers, Inc., at all material times, was and is a corporation incorporated under the laws of the Commonwealth of Virginia with its principal place of business in Richmond, Virginia.

2. Defendant, Clarence Jones, at all material times, was and is a citizen of the Commonwealth of Virginia.

3. Co-defendant, I & A Transport is a Florida corporation with its principal place of business located in Miami, Florida.

4. Co-defendant, Martin Camacho is a resident of Florida whose primary residence is located in Miami, Florida.

5. At all material times hereto, plaintiffs were and are citizens of Connecticut, and they reside in Connecticut.. See Exhibit A - Plaintiffs' Complaint.

4. Plaintiff has commenced a civil action against defendant in the Superior Court of Delaware in and for New Castle County. The Complaint, was filed on September 2, 2004.

5. According to the docket entries the Complaint was served on the Secretary of State for Delaware on November 10, 2004. Based upon information and belief, service has not been fully effectuated upon any defendant. Pursuant to 10 Del. C. §3104 and §3112 service is effectuated upon the Secretary of State and "provided that not later than 7 days following the filing of the return of services process... shall send the complaint by registered mail to the non-resident defendant." According to the docket, no Affidavit of Service or of Non-Receipt has been filed with the court.

6. Plaintiffs have alleged permanent injuries and extensive medical care as a result of the motor vehicle accident at issue in this lawsuit.

7. In addition, plaintiffs counsel has certified that the value of the lawsuit is in excess of \$100,000. A copy of the Certificate of Value letter is attached hereto as Exhibit "B."

6. Based upon a fair reading of the Complaint and the Certificate of Value, plaintiffs have set forth a claim in which an amount in excess of the jurisdictional limit of \$75,000, exclusive of interest and costs, may be at stake.

8. This Removal is timely filed pursuant to 28 U.S.C. §1446 as service has not been effectuated upon any defendant.

7. Diversity of citizenship within the meaning of 28 U.S.C. §1332, exists between plaintiffs and defendants since:

- (a) plaintiffs are citizens and residents of the State of Connecticut; and
- (b) defendants are not citizens or residents of the State of Connecticut.

8. Furthermore, diversity of citizenship existed at the time the action sought to be removed was commenced and continues through the time of filing of this notice, such that

defendants are entitled to removal pursuant to 28 U.S.C. §1441 as amended, and 28 U.S.C. §1446.

WHEREFORE, defendants, E & S Contract Carriers, Inc. and Clarence Jones, pray that the above-captioned action now pending in the Superior Court of Delaware in and for New Castle County, be removed there from to This Honorable Court.

RAWLE & HENDERSON, LLP

By: 

Delia A. Clark (DAC 3337)

Attorneys for Defendants

300 Delaware Avenue, Suite 1015

Wilmington, DE 19801

(302) 778-1200

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the within-captioned Notice of Removal Pursuant to 28 U.S.C. §1446(d) was served via first-class mail, postage prepaid, on counsel for plaintiffs listed below:

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Eluzofon, Austin, Reardon,
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RAWLE & HENDERSON, LLP

By: 

Delia A. Clark
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Dated: 3/3/05